Supreme Court of the United States

OCTOBER TERM, 1933

No. 308

MAXINE MURRAY, on her own behalf and as Guardian ad Litem of Maxine Lois Murray, a minor,

Petitioners,

vs.

JOE GERRICK & COMPANY, INDUSTRIAL BROWN HOIST CORPORATION, R. W. KALTENBACH CORPORATION, F. W. CORNING, IRVING GOTTHEIM, and MAX BLOOMENSTEIN,

Respondents.

MOTION TO DISMISS FOR WANT OF JURISDICTION AND BRIEF IN SUPPORT THEREOF.

MOTION.

Respondents move to dismiss this action for want of jurisdiction for the reason that the judgment sought to be reviewed is a joint judgment against the petitioner Maxine Murray and Fidelity & Deposit Company of Maryland; that said Fidelity & Deposit Company of Maryland has not joined in the petition for certiorari and the record fails to disclose summons and severance.

STEPHEN V. CAREY,

Attorney for Joe Gerrick & Company and F. W. Corning, Respondents.

J. SPEED SMITH,
HENRY ELLIOTT, JR.,

Attorneys for Industrial Brown Hoist Corporation, R. W. Kaltenbach Corporation and Max Bloomenstein, Respondents.

BRIEF IN SUPPORT OF MOTION.

The petitioner, Maxine Murray, was the plaintiff and appellant below. The judgment of the Supreme Court of the State of Washington sought to be reviewed was entered on May 12, 1933. It is a joint judgment against the petitioner, Maxine Murray, and Fidelity & Deposit Company of Maryland (Tr. of Record, pp. 30, 31). The Fidelity & Deposit Company of Maryland did not join in the petition for certiorari in this court nor does the record disclose summons and severance.

The court is without jurisdiction under the following authorities:

Hartford Accident & Indemnity Co. v. Bunn, 285 U. S. 169;

Capital National Bank v. Hinds County, 286 U. S. 550;

Fidelity Union Casualty Co. v. Hanson, 287 U. S. 599;

Louisville & Nashville Rd. Co. v. Parker, 287 U. S. 569;

Wagner Tug Boat Co. v. Meagher, 287 U. S. 657.

Respectfully submitted,

STEPHEN V. CAREY,
Attorney for Joe Gerrick & Company and F. W. Corning, Respondents.

J. SPEED SMITH,
HENRY ELLIOTT, JR.,
Attorneys for Industrial Brown Hoist Corporation, R. W. Kaltenbach Corporation and Max Bloomenstein, Respondents.